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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

17 CR 463 (LAK)

5 DENVER McFADDEN,

6 Defendant.

7 -----x

8 New York, N.Y.
9 February 22, 2018
10:35 a.m.

10 Before:

11 HON. JAMES L. COTT,

12 Magistrate Judge

13
14 APPEARANCES

15 GEOFFREY S. BERMAN

16 Interim United States Attorney for the
17 Southern District of New York

TARA LA MORTE

17 Assistant United States Attorney

18 FEDERAL DEFENDERS OF NEW YORK

Attorneys for Defendant

19 BY: SARAH BAUMGARTEL

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(In open court, case called)

MS. LA MORTE: Good morning, your Honor, Tara La Morte for the government.

THE COURT: Good morning, Ms. La Morte.

MS. BAUMGARTEL: Good morning, Sarah Baumgartel, Federal Defenders, on behalf of Mr. McFadden.

THE COURT: Good morning, Ms. Baumgartel. Good morning, Mr. McFadden.

THE DEFENDANT: Good morning.

THE COURT: Please be seated.

Mr. McFadden, I have before me a form called a Consent to Proceed before a United States Magistrate Judge on a Felony Plea Allocution that you signed. What the form says is that knowing that you have the right to have your plea taken by a United States district judge, you're agreeing to have your plea taken here in magistrate's court by a United States magistrate judge. Is that correct?

THE DEFENDANT: That's correct.

THE COURT: And before you signed the form, did Ms. Baumgartel explain this to you?

THE DEFENDANT: Yes, she did.

THE COURT: I will sign the consent form and we shall proceed.

Now Mr. McFadden, the purpose of this proceeding today is to make sure that you understand your rights, to decide

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1 whether you're pleading guilty of your own free will, and to
2 make sure you're pleading guilty because you are guilty and not
3 for some other reason. Do you understand that?

4 THE DEFENDANT: I understand that.

5 THE COURT: If at any time you don't understand any of
6 the questions that I'm going to be asking you during this
7 proceeding today, or if you wish to consult with
8 Ms. Baumgartel, please let me know, because it is important
9 that you understand every question before you answer. Okay?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Before I take your plea, as I said, I'm
12 going to be asking you a series of questions, and I therefore
13 need to place you under oath. So would you please raise your
14 right hand.

15 (Defendant sworn)

16 THE COURT: Do you understand, Mr. McFadden, that any
17 statements that you make here today under oath may be used
18 against you in a prosecution for perjury or for making false
19 statements if you do not tell the truth?

20 THE DEFENDANT: I do, your Honor.

21 THE COURT: All right. I have in front of me a waiver
22 of indictment. Did you sign this waiver of indictment?

23 THE DEFENDANT: I did.

24 THE COURT: Before you signed it, did you discuss it
25 with Ms. Baumgartel?

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1 THE DEFENDANT: I did, your Honor.

2 THE COURT: Do you understand what you are doing by
3 signing this waiver?

4 THE DEFENDANT: Yes, I do, your Honor.

5 THE COURT: Do you understand that you are under no
6 obligation to waive indictment?

7 THE DEFENDANT: Yes, I understand, your Honor.

8 THE COURT: Do you understand if you do not waive
9 indictment, if the government wants to prosecute you, they have
10 to present these charges to a grand jury which may or may not
11 indict you on these charges?

12 THE DEFENDANT: Yes, I understand, your Honor.

13 THE COURT: Do you realize that by signing this waiver
14 of indictment you have given up your right to have this case
15 presented to a grand jury?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand what a grand jury is?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: Have you seen a copy of the superseding
20 information?

21 THE DEFENDANT: Yes, I have it in front of me.

22 THE COURT: And you have seen it?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you waive its public reading, meaning
25 that I won't need to read it to you here?

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1 THE DEFENDANT: Oh, yes, I waive the public reading.

2 THE COURT: How do you wish to plead to the
3 superseding information, guilty or not guilty?

4 THE DEFENDANT: Guilty, your Honor.

5 THE COURT: Could you tell the Court your full name.

6 THE DEFENDANT: Denver McFadden.

7 THE COURT: How old are you?

8 THE DEFENDANT: I'm 68 years old.

9 THE COURT: Are you a citizen of the United States?

10 THE DEFENDANT: Yes, I am.

11 THE COURT: Are you able to read and write English?

12 THE DEFENDANT: I am.

13 THE COURT: How far did you go to school?

14 THE DEFENDANT: Post graduate.

15 THE COURT: Are you now or have you recently been
16 under the care of a doctor or psychiatrist for any reason?

17 THE DEFENDANT: Yes, I have been.

18 THE COURT: What condition or conditions you have been
19 treated for?

20 THE DEFENDANT: Major depression and anxiety
21 disorders.

22 THE COURT: And have you recently been treated for any
23 addiction to narcotic drugs?

24 THE DEFENDANT: Yes, your Honor. I have had a
25 condition in my side with my back and my leg for years, and I

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1 have been treated with opiates. And my doctor is making every
2 attempt to get me off of those, and I'm down to very little at
3 this point.

4 THE COURT: And you said you had also been treated for
5 mental illness, is that correct?

6 THE DEFENDANT: That's correct.

7 THE COURT: Are you on medication as we sit here
8 today?

9 THE DEFENDANT: Yes, I am.

10 THE COURT: Does the medication that you're under or
11 the conditions you're being treated for have any impact on your
12 ability to understand or make decisions or judgments?

13 THE DEFENDANT: No, they do not.

14 THE COURT: All right. Are you under the influence of
15 a mind-altering drug or any alcohol drink as you sit here
16 today?

17 THE DEFENDANT: Absolutely not, your Honor.

18 THE COURT: Have you been able to understand
19 everything that I have said to you so far?

20 THE DEFENDANT: I have, your Honor.

21 THE COURT: Do you feel all right today?

22 THE DEFENDANT: Yes.

23 THE COURT: I assume there is no competence question
24 here, but I'm just exploring this as much as I think I need to.

25 Ms. Baumgartel, any concerns on your end?

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1 MS. BAUMGARTEL: Your Honor, I have no doubt of
2 Mr. McFadden's competency.

3 THE COURT: Ms. La Morte, does the government?

4 MS. LA MORTE: No.

5 THE COURT: Are there any additional questions that
6 either counsel wishes the Court to ask in regards to what I'll
7 call the competency line of questions?

8 MS. BAUMGARTEL: No, your Honor.

9 MS. LA MORTE: No, your Honor. I would just note it
10 was very recently that Mr. McFadden was hospitalized in
11 connection with his mental illness. I don't know if there are
12 additional probative questions that should be asked, but that
13 was within the last week or so he had expressed suicidal
14 ideation and was taken to the hospital. So I just do want to
15 make sure that he confirms that he feels well enough today, in
16 light of that, to proceed.

17 THE COURT: Mr. McFadden, you are here today because
18 you want to enter a plea to the charges in the superseding
19 information?

20 THE DEFENDANT: I do. And I was hospitalized for one
21 evening on the advice of my psychiatrist sending me there, but
22 I am not suicidal, I don't have suicidal ideations, and I am
23 very capable of making decisions.

24 THE COURT: All right. Anything further?

25 MS. LA MORTE: Nothing further. That's sufficient,

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1 your Honor.

2 THE COURT: I am confident in the allocutions we have
3 had so far that Mr. McFadden is clear headed and competent to
4 proceed on the basis of all the answers he has given me to my
5 questions.

6 So Mr. McFadden, you said you have seen the
7 superseding information, is that correct? Have you read it?

8 THE DEFENDANT: I have read it, and I have seen it,
9 yes.

10 THE COURT: And you understand what it says that you
11 did?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Have you had a chance to discuss the
14 charges in the superseding information and how you wish to
15 plead with Ms. Baumgartel?

16 THE DEFENDANT: Yes, I have, numerous times.

17 THE COURT: Are you satisfied with her representation
18 of you?

19 THE DEFENDANT: I'm very satisfied with her
20 representation of me.

21 THE COURT: Have you had a full opportunity to discuss
22 the case with her?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: Has she told you the consequences of
25 pleading guilty?

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1 THE DEFENDANT: She has very clearly.

2 THE COURT: You're ready to enter a plea at this time?

3 THE DEFENDANT: I am.

4 THE COURT: Let me review with you both of the counts
5 in the superseding information and the penalties that are
6 associated with each of those counts.

7 Count One charges you with travel with intent to
8 engage in illicit sexual conduct in violation of federal law,
9 and carries a maximum term of imprisonment of 30 years, a
10 maximum term of supervised release of life, a mandatory minimum
11 term of supervised release of five years, a maximum fine of
12 \$250,000, and a \$100 mandatory special assessment.

13 Do you understand the charge in Count One and the
14 penalties that are associated with that charge?

15 THE DEFENDANT: I do, your Honor.

16 THE COURT: How do you wish to plead to Count One of
17 the superseding information, guilty or not guilty?

18 THE DEFENDANT: Guilty, your Honor.

19 THE COURT: Count Two charges with you with receipt of
20 child pornography in violation of federal law, and carries a
21 maximum term of imprisonment of 20 years, a mandatory minimum
22 term of imprisonment of five years, a maximum term of
23 supervised release of life, a mandatory minimum term of
24 supervised release of five years, a maximum fine of \$250,000,
25 and a \$100 mandatory special assessment.

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1 Do you understand the charge in Count Two and the
2 penalties that are associated with that charge?

3 THE DEFENDANT: I do, your Honor.

4 THE COURT: How do you wish to plead to Count Two of
5 the superseding information, guilty or not guilty?

6 THE DEFENDANT: Guilty, your Honor.

7 THE COURT: Do you understand, Mr. McFadden, that the
8 total maximum term of imprisonment on Counts One and Two is 50
9 years with a mandatory minimum term of five years?

10 THE DEFENDANT: I do, your Honor.

11 THE COURT: Do you understand that the Court could
12 order you to pay restitution to any victims?

13 THE DEFENDANT: I do, your Honor.

14 THE COURT: And do you understand -- although I'm not
15 sure it's applicable here, but do you understand that the Court
16 could order you to forfeit certain property to the government?

17 THE DEFENDANT: I do, your Honor.

18 THE COURT: Is there any forfeiture issue in this
19 case?

20 MS. LA MORTE: No, your Honor, there's not.

21 THE COURT: Do you also understand, Mr. McFadden, that
22 if as part of your sentence you're placed on a term of
23 supervised release and then you violated any of the conditions
24 of that release, you could face an additional term of
25 imprisonment?

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1 THE DEFENDANT: I understand, your Honor.

2 THE COURT: And do you understand -- I know you said
3 you're a United States citizen, but if it were for some reason
4 determined you were not a United States citizen, your guilty
5 plea could result in your being removed from the United States,
6 denied citizenship, and denied admission to the United States
7 in the future. Do you understand that?

8 THE DEFENDANT: I understand.

9 THE COURT: Do you understand that you're bound by
10 your guilty plea regardless of any immigration consequences of
11 your plea and regardless of any advice that you received from
12 your counsel or anyone else regarding those consequences?

13 THE DEFENDANT: I do understand, your Honor.

14 THE COURT: Have you specifically discussed the
15 potential immigration consequences of your plea?

16 THE DEFENDANT: Yes, with my attorney.

17 THE COURT: Okay.

18 THE DEFENDANT: At length.

19 THE COURT: All right. Now Mr. McFadden, at this time
20 I want to review with you certain constitutional rights that
21 you have but that you would be giving up by entering a guilty
22 plea here today. Do you understand, first of all, that you
23 have a right to plead not guilty to the charges in the
24 superseding information and a right to a speedy and public jury
25 trial if you wish?

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1 THE DEFENDANT: I understand.

2 THE COURT: And do you understand that if you were to
3 plead not guilty and go to trial, you would be presumed
4 innocent, and the burden would be on the government to prove
5 your guilt beyond a reasonable doubt?

6 THE DEFENDANT: I understand.

7 THE COURT: Do you understand that you're entitled to
8 be represented by an attorney at all stages of the proceedings,
9 at trial and at every other stage, and if you cannot afford to
10 hire or retain an attorney, the Court would provide an attorney
11 to you for free?

12 THE DEFENDANT: I do understand.

13 THE COURT: Do you understand that if there were a
14 trial in your case, you would be entitled to confront and
15 cross-examine any witnesses called by the government to testify
16 against you?

17 THE DEFENDANT: I understand that.

18 THE COURT: And do you understand you would be
19 entitled to testify on your own behalf if there were a trial?

20 THE DEFENDANT: I understand.

21 THE COURT: Do you understand you could call witnesses
22 and present evidence?

23 THE DEFENDANT: I do understand.

24 THE COURT: And do you understand you could ask the
25 Court to issue subpoenas to compel witnesses to appear and

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1 testify in your defense even if they did not otherwise wish to
2 come to court?

3 THE DEFENDANT: I do understand.

4 THE COURT: Do you understand that if there were a
5 trial in your case, you would not be required to testify
6 against yourself?

7 THE DEFENDANT: Yes, I understand.

8 THE COURT: And do you understand if you chose not to
9 testify that that fact could not be used against you?

10 THE DEFENDANT: I understand.

11 THE COURT: Do you also understand that if you went to
12 trial and were convicted at the trial, you would still have the
13 right to appeal that conviction to a higher court?

14 THE DEFENDANT: I do.

15 THE COURT: Now do you understand that by entering a
16 guilty plea here this morning, you will be giving up all of the
17 rights that I just reviewed with you, including your right to a
18 trial, you will not be able to withdraw your plea, and the only
19 remaining step in this case will be the sentencing?

20 THE DEFENDANT: I understand.

21 THE COURT: And do you understand that the decision as
22 to the appropriate sentence in your case will be entirely up to
23 the sentencing judge, who in this case is Judge Kaplan, and he
24 will be limited only by what the law requires?

25 THE DEFENDANT: I do understand.

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1 THE COURT: Do you understand that even if you're
2 surprised or disappointed by your sentence, you're still going
3 to be bound by your guilty plea?

4 THE DEFENDANT: I do understand.

5 THE COURT: Now knowing everything that I just
6 reviewed with you, do you still wish to plead guilty to Counts
7 One and Two of the superseding information?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: Has any force or have any threats been
10 used, either directly or indirectly, to influence how you plead
11 today?

12 THE DEFENDANT: No, they have not.

13 THE COURT: Now I have before me a letter that's dated
14 February 12, 2018 from the government to Ms. Baumgartel
15 containing your plea agreement. Have you read this letter?

16 THE DEFENDANT: I have.

17 THE COURT: Did you sign it on the last page?

18 THE DEFENDANT: Yes, I did.

19 THE COURT: Before you signed it, did you discuss it
20 with Ms. Baumgartel?

21 THE DEFENDANT: I did.

22 THE COURT: Did she explain to you all of its terms
23 and conditions?

24 THE DEFENDANT: Yes.

25 THE COURT: Apart from what is contained in this

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1 letter, have any promises been made to you in order to get you
2 to plead guilty?

3 THE DEFENDANT: None.

4 THE COURT: Now in reviewing the agreement, I note
5 that it contains an analysis of how part of our law of
6 sentencing, which we call the sentencing guidelines, may impact
7 on any prison term in your case. Based on that analysis on
8 page 4, the agreement states the conclusion that the guidelines
9 sentencing range can be expected to be from 292 to 365 months
10 imprisonment. Do you understand that?

11 THE DEFENDANT: Yes, I do.

12 THE COURT: Do you understand that Judge Kaplan is not
13 bound by the calculation in the letter, he's going to be free
14 to do his own calculation, which may result in a guideline
15 range that is different from the one that's in the letter.

16 THE DEFENDANT: I understand that.

17 THE COURT: Do you understand that no matter what
18 sentencing range Judge Kaplan believes is called for by the
19 guidelines, that range is just one of many factors that he's
20 going to consider in determining your sentence, and he has the
21 discretion to give you a prison sentence below or above the
22 range anywhere up to the maximum sentence of imprisonment that
23 we spoke about before.

24 THE DEFENDANT: I understand.

25 THE COURT: All right. And do you understand as part

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1 of the plea agreement it says that you cannot -- let me find it
2 here. It doesn't say it.

3 Isn't there a provision in the agreement about a fine,
4 or not?

5 MS. LA MORTE: Beyond what's listed in the first page
6 regarding -- there is an applicable fine category here, your
7 Honor.

8 THE COURT: What's that?

9 MS. LA MORTE: There is an applicable fine range, I
10 just need to find it.

11 It's on page 4 under sentencing range, the last --

12 THE COURT: But is there nothing in the letter that
13 says if the fine is \$500,000 or less that he cannot appeal
14 that?

15 MS. LA MORTE: The appeal waiver?

16 THE COURT: Yes, I don't see it.

17 MS. BAUMGARTEL: I think the fine is not included in
18 the appeal waiver.

19 THE COURT: It usually is.

20 MS. LA MORTE: It usually is.

21 THE COURT: But is isn't.

22 MS. LA MORTE: It is not.

23 THE COURT: Is there a reason that isn't or should be?

24 MS. LA MORTE: Let me confer with defense counsel.

25 THE COURT: Okay.

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1 (Pause)

2 MS. LA MORTE: Your Honor, it should be there, and the
3 defense agrees to it. It's an oversight. We could handwrite
4 it in and have the parties initial it.

5 THE COURT: That's fine with me as long as it's clear
6 for the record and to Judge Kaplan.

7 So Mr. McFadden, what I believe counsel are going to
8 amend the agreement to include is that you're going to agree
9 that you cannot appeal any fine of \$500,000 or less. Is that
10 what you're going to agree to?

11 MS. BAUMGARTEL: Yes, your Honor.

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that?

14 THE DEFENDANT: I understand.

15 THE COURT: Do you also understand that you cannot
16 appeal any lawful sentence of supervised release?

17 THE DEFENDANT: I understand.

18 THE COURT: Do you also understand that in the letter
19 you're giving up your right to complain if the government
20 withheld any evidence from your attorney that would have been
21 helpful to you?

22 THE DEFENDANT: Yes, I understand.

23 THE COURT: All right. Now Mr. McFadden, is your plea
24 voluntary, what I mean by that, is it made of your own free
25 will?

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1 THE DEFENDANT: It is voluntary and it is made of my
2 own free will.

3 THE COURT: Did you in fact commit the offenses that
4 are charged in Counts One and Two of the superseding
5 information?

6 THE DEFENDANT: I did, your Honor.

7 THE COURT: Before I ask you to tell the Court what
8 you did, I'm going to ask the government to summarize the
9 elements of the offenses, and if it wishes to advise the Court
10 what the evidence would have been had there been a trial in
11 this case. Ms. La Morte.

12 MS. LA MORTE: Yes, your Honor. So the defendant is
13 pleading guilty, as we know, to a two-count information.

14 Count One charges travel with intent to engage in
15 illicit sexual conduct in violation of 18, United States Code,
16 Section 2423(b). That crime has two elements: The first is
17 that the defendant traveled in interstate commerce, and second,
18 that the defendant traveled for the purpose of engaging in
19 illicit sexual conduct.

20 Illicit sexual conduct, in turn, is defined in 18,
21 United States Code, Section 2423(f). It means a sexual act, a
22 statutory sexual act definition, with a person under 18 years
23 of age that would be in violation of Chapter 109(a) if that act
24 occurred in the special maritime and territorial jurisdiction
25 of the United States. So those are the elements for travel

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1 with intent to engage in illicit sexual conduct.

2 Count Two charges receipt of child pornography in
3 violation of 18, United States Code, Section 2252A(a)(2) and
4 (b)(1). That has four elements: The first is that the
5 defendant knowingly received a visual depiction of sexually
6 explicit conduct. That term is defined in 18, United States
7 Code, Section 2256. Second is that that visual depiction
8 involved the use of a minor. Third is that it was transported
9 in interstate or foreign commerce by any means, including
10 computer. And fourth, that the defendant knew that such
11 material contained child pornography as defined by statute.

12 In addition to that, which we would have to prove
13 beyond a reasonable doubt, the government would have to prove
14 that venue exists within the jurisdiction of the Southern
15 District of New York by a preponderance of the evidence.

16 Our proof there is that the victim at issue in this
17 case resided in the Southern District of New York, and that the
18 defendant traveled into the Southern District of New York for
19 purposes of engaging illicit sexual conduct with the victim.
20 In addition, with respect to receipt of child pornography, we
21 would prove that through the fact that the child pornography
22 was exchanged while the victim was in New York and the
23 defendant was outside the State of New York.

24 So beyond that, your Honor, the proof that we would
25 introduce in this case, were we to go to trial, would be

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1 testimony of the victim, the defendant's travel records, emails
2 between the defendant and the victim, other emails that the
3 defendant exchanged with other potential victims, testimony
4 from law enforcement officers.

5 And just to further clarify one point, I mentioned
6 additional emails, it would be emails with other minors with
7 whom the defendant communicated for the purposes of enticing
8 sexual activity.

9 And unless your Honor has any questions, those are the
10 elements of the proof that we would introduce.

11 THE COURT: Thank you, Ms. La Morte.

12 Mr. McFadden, at this time could you please tell the
13 Court in your own words what you did that makes you guilty of
14 the charges against you. And if you're going to read
15 something, which is perfectly fine, just speak slowly for
16 purposes of the court reporter.

17 THE DEFENDANT: Sure. In January 2017 and April 2017
18 I traveled from Kentucky to Manhattan, New York, for the
19 purpose of meeting and having a sexual encounter with someone
20 who was under 18. Around that time, with the same person who
21 was under 18, I engaged in online chats. During one of those
22 chats, he transmitted images of himself engaged in sexual
23 activity. I knew that these actions were wrong, and I am very,
24 very sorry.

25 THE COURT: Ms. La Morte, are there follow-up

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1 questions that you want me to ask to that allocution?

2 MS. LA MORTE: No, your Honor, and I think that's
3 sufficient.

4 THE COURT: Ms. Baumgartel, anything that you want me
5 to ask to follow up?

6 MS. BAUMGARTEL: No, your Honor. And to be clear,
7 while Mr. McFadden was engaging in the chats, he was in
8 Kentucky, and it's our understanding that the other individual
9 was in the Southern District of New York.

10 THE COURT: Is that correct, Mr. McFadden?

11 THE DEFENDANT: That is correct, to my understanding.

12 THE COURT: All right. Does the government represent
13 it has sufficient evidence to establish Mr. McFadden's guilt
14 beyond a reasonable doubt?

15 MS. LA MORTE: Yes, your Honor.

16 THE COURT: Ms. Baumgartel, do you know of a defense
17 that would prevail at trial or any other reason why
18 Mr. McFadden should not be permitted to plead guilty at this
19 time?

20 MS. BAUMGARTEL: No.

21 THE COURT: Are there any further questions either
22 counsel wishes the Court to ask before we conclude the
23 proceedings?

24 MS. LA MORTE: No other questions, your Honor, just
25 noting for the record that I am going to insert a sentence into

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1 the plea agreement which is before the Court to make clear that
2 the defendant will not appeal any fine that's at or above
3 \$500,000, and counsel and the defendant will sign that
4 additional sentence.

5 THE COURT: All right. Anything else?

6 MS. BAUMGARTEL: No, your Honor, just to add that's
7 correct.

8 THE COURT: All right. On the basis of Mr. McFadden's
9 responses to my questions and my observation of his demeanor, I
10 do find that he is fully competent to enter an informed plea at
11 this time. I also conclude that he understands the nature of
12 the charges and the consequences of his plea. And finally, I'm
13 satisfied that his plea is voluntary and that there's a factual
14 basis for it. Accordingly, I recommend that the proffered plea
15 to Counts One and Two of the superseding information be
16 accepted.

17 And I assume the government will order a copy of the
18 transcript of this proceeding and will submit it to Judge
19 Kaplan together with any other paperwork he may need so that he
20 can act on this recommendation.

21 MS. LA MORTE: Yes, your Honor.

22 THE COURT: Has he scheduled a sentencing date?

23 MS. LA MORTE: No, your Honor, not yet.

24 THE COURT: We'll set a control date of June 22nd,
25 which is 120 days out. I assume you all will be in touch with

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1 his chambers to schedule something in the interim.

2 In any event, the prosecution case summary for
3 purposes of the presentence report should be delivered to
4 probation in the next 14 days.

5 And Ms. Baumgartel, you should make yourself available
6 with Mr. McFadden within the next 14 days if you can, but I
7 know he lives out of state, so whenever you can do so as
8 expeditiously as possible that's convenient to both of you.

9 MS. BAUMGARTEL: Yes, your Honor.

10 THE COURT: Is there anything further from the
11 government?

12 MS. LA MORTE: No, your Honor.

13 THE COURT: Ms. Baumgartel?

14 MS. BAUMGARTEL: No, thank you.

15 THE COURT: Have a good day, Mr. McFadden.

16 THE DEFENDANT: Thank you very much, your Honor.

17 MS. LA MORTE: Thank you, your Honor.

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